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7 Hon. Richard A. Jones

8                   **UNITED STATES DISTRICT COURT**  
9                   **WESTERN DISTRICT OF WASHINGTON**  
10                  **AT SEATTLE**

11 PHILIP SMITH,

12                  Plaintiff,

13                  v.

14 COUPANG INC. and DOES 1-10, inclusive,

15                  Defendants.

16 Case No. 23-1887

17                  **DECLARATION OF JENNIFER**  
18                  **SCHWARTZ IN SUPPORT OF**  
19                  **PLAINTIFF'S MOTION FOR LEAVE TO**  
20                  **FILE CORRECTED AMENDED**  
21                  **COMPLAINT**

22 I, Jennifer Schwartz, hereby state as follows:

23 1. I am a Partner with the law firm Outten & Golden LLP, and counsel for Plaintiff  
24 Philip Smith in the above-captioned action. I submit this declaration in support of Plaintiff's  
25 Reply in Support of Plaintiff's Motion for Leave to File Corrected Amended Complaint. Dkt.  
47.

26 2. As part of Plaintiff's legal team, I reviewed and approved Plaintiff's Amended  
27 Complaint prior to filing and did not recognize the errors in the Amended Complaint. We had  
28 added references to "Coupang Global LLC" to bolster the argument that Defendant Coupang  
29 Inc.'s affiliated entities included those located in the United States, along with multiple other

1 facts, defeat Defendant's argument (at least at the pleading stage) that the complaint should be  
 2 dismissed because of lack of sufficient domestic nexus.

3       3. On March 8, 2024, the parties met and conferred regarding Defendant's  
 4 anticipated motion to dismiss plaintiff's Amended Complaint. Ms. Lenning, Mr. Subit, and Ms.  
 5 Onyendu attended the meet and confer on behalf of Plaintiff. On March 11, 2024, Defendant  
 6 filed its Motion to Dismiss Plaintiff's Amended Complaint. Dkt. 30.

7       4. Defendant's Motion to Dismiss alerted me for the first time to the fact that the  
 8 name of Plaintiff's employer, "Coupang LLC" had been inadvertently changed to "Coupang  
 9 Global LLC" in several places in error in Plaintiff's Amended Complaint. Certain other  
 10 references to "Coupang Global LLC" were properly identified.

11       5. Following the recovery of the member of Plaintiff's legal team from COVID  
 12 (who was taking the lead in preparing Plaintiff's opposition to the MTD),<sup>1</sup> Plaintiff's counsel  
 13 worked diligently with counsel for Defendant in an attempt to correct the errors in the Amended  
 14 Complaint. On March 22, 2024, I emailed Defendant's counsel seeking consent for a one-week  
 15 extension for Plaintiff's Opposition to Defendant's Motion to Dismiss the Amended Complaint,  
 16 to which defense counsel agreed. *See Ex. A.* The parties also reached agreement that the  
 17 extension would apply to Plaintiff's Opposition to Defendant's Request for Judicial Notice and  
 18 Notice for Incorporation By Reference, and Defendant's Reply. *Id.* That same day, I emailed  
 19 Defendant's counsel requesting a stipulation or Defendant's consent to the filing of a Corrected  
 20 Amended Complaint without seeking leave of the Court so that the inadvertent naming errors  
 21 could be corrected. *Id.* I stated that our intention with filing the Corrected Amended Complaint

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 23       1 Plaintiff's counsel Ms. Lenning started exhibiting symptoms of COVID on March 12, 2024, the day  
 24 after Defendant filed its Motion to Dismiss the Amended Complaint (the "Motion") and a related Request  
 25 for Judicial Notice and Notice of Incorporation by Reference (the "Request") on March 11, 2024. Dkts.  
 30; 32.

was to avoid any confusion with the Court and to correct the record.<sup>2</sup> Ex. A. Counsel for Defendant refused to consent to the corrections. Defendant stated that it did not want to incur an additional round of pleadings and motion to dismiss briefing.

6. Plaintiff's legal team communicated to Defendant's counsel that it did not believe additional briefing would be necessary.

7. At no point during counsel’s email exchanges regarding these issues and the specific corrections Plaintiff sought to make on March 22, March 25, March 26, and April 1, and April 2, 2024 did Defendant’s counsel say or indicate that they considered these errors to be Plaintiff’s intentional bad faith attempt at prejudicing Defendant and deceiving the Court.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the forgoing is true and correct.

Executed this 19th day of April, 2024, in New York, New York.

Jennifer Flawson

Jennifer Schwartz

<sup>2</sup> In order to avoid confusion, Plaintiff's arguments in its Opposition to Defendant's Motion to Dismiss Amended Complaint currently pending before the Court are solely based on allegations in the Corrected Amended Complaint. *See also* Dkt. 39, fn. 11.